# House of Representatives

General Assembly

**File No. 369**

*January Session, 2013*

Substitute House Bill No. 6514

*House of Representatives, April 4, 2013*

The Committee on Human Services reported through REP. ABERCROMBIE of the 83rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE CONCERNING MEDICAID PAYMENT INTEGRITY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective from passage*) (a) On June 30, 2014, and annually thereafter, the Commissioner of Social Services, in coordination with the Chief State's Attorney and the Attorney General, shall submit a joint report on the state's efforts in the previous fiscal year to prevent and control fraud, abuse and errors in the Medicaid payment system and to recover Medicaid overpayments, except as otherwise required. The joint report shall include a final reconciled and unduplicated accounting of identified, ordered, collected and outstanding Medicaid recoveries from all sources. No personally identifying information related to any Medicaid claim or payment shall be included in the joint report. Nothing in this section shall require the Department of Social Services, the office of the Chief State's Attorney or the office of the Attorney General to report information

that is protected from disclosure under state or federal law or by court rule.

(b) The Department of Social Services shall provide information, including, but not limited to:

(1) Data related to Medicaid audits conducted by the department, including: (A) The number of such audits completed by provider type; (B) the amount of overpayments identified due to such audits; (C) the amount of avoided costs identified due to such audits; (D) the amount of overpayments recovered due to such audits; and (E) the number of such audits resulting in referral to the office of the Chief State's Attorney;

(2) Data related to Medicaid program integrity investigations conducted by the department, including: (A) The number of complaints received by source type and reason; (B) the number of investigations opened by source type and provider type; (C) the number of investigations completed, with outcomes for each investigation by source type and provider type; (D) the amount of overpayments identified due to investigations; (E) the amount of overpayments collected due to investigations; (F) the number of investigations resulting in a referral to the office of the Chief State's Attorney; (G) for each closed investigation, the length of time elapsed between case opening and closing by time ranges, from between (i) less than one month to six months, (ii) seven months to twelve months, (iii) thirteen months to twenty-four months, or (iv) twenty-five or more months; (H) for each investigation resulting in a referral to another agency, the length of time elapsed between case opening and referral for the time ranges described in subparagraph (G) of this subdivision; (I) the number of investigations resulting in suspension of Medicaid payments by provider type; and (J) the number of investigations resulting in provider exclusion from the Medicaid program by provider type; and

(3) The amount of overpayments collected by recovery contractors by type of contractor.

(c) The Chief State's Attorney shall provide Medicaid information including, but not limited to: (1) The number of investigations opened by source type; (2) the general nature of the allegations by provider type; (3) for each closed case, the length of time elapsed between case opening and closing by the time ranges described in subparagraph (G) of subdivision (2) of subsection (b) of this section; (4) the final disposition category of closed cases by provider type; (5) the monetary recovery sought and realized by action, including (A) criminal charges, (B) settlements, and (C) judgments; and (6) the number of referrals declined and reason.

(d) The Attorney General shall provide Medicaid information including, but not limited to: (1) The number of investigations opened by source type; (2) the general nature of the allegations by provider type; (3) for each closed case, the length of time elapsed between case opening and closing by the time ranges described in subparagraph (G) of subdivision (2) of subsection (b) of this section; (4) the final disposition category of closed cases by provider type; (5) the monetary recovery sought and realized by action, including (A) civil monetary penalties, (B) settlements, and (C) judgments; and (6) the number of referrals declined and reason.

(e) The joint report shall include third party liability recovery information for the previous five-year period by fiscal year, including, but not limited to: (1) The total number of claims selected for billing by commercial health insurance and Medicare; (2) the total amount billed for such claims; (3) the number of claims where recovery occurred; (4) the actual amount collected; (5) the number of files updated with third party insurance information; and (6) the estimated cost avoidance in the future related to updated files.

(f) The joint report shall include: (1) Detailed and unit specific performance standards, benchmarks and metrics; (2) projected cost savings for the following fiscal year; (3) new initiatives taken to prevent and detect overpayments; and (4) policy recommendations necessary to prevent or recover overpayments and deter and detect

fraud. All such policy recommendations shall include a detailed fiscal analysis, including estimated (A) implementation costs, (B) savings, and (C) return on investment.

(g) The Commissioner of Social Services, in coordination with the Chief State's Attorney and the Attorney General, shall submit the joint report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committees of the General Assembly having cognizance of matters relating to human services and appropriations and the budgets of state agencies. Each agency shall also post the joint report on the agency's Internet web site.

Sec. 2. (*Effective from passage*) (a) The Department of Social Services shall conduct an assessment of the feasibility of expanding its Medicaid audit program. This assessment shall include, but not be limited to: (1) A return-on-investment calculation that compares the additional resources necessary to expand the program to the potential benefits of such expansion, and (2) a cost comparison between using department employees or a contingency-based contractor to increase the number of audits conducted.

(b) The Department of Social Services shall produce a written analysis of the recovery of Medicaid dollars through its third-party liability contractors to determine if recovery procedures maximize collection efforts. If deficiencies are found in such procedures, the department shall develop strategies to address any gaps. Such analysis shall include, but not be limited to: (1) A review of the reasons for third-party liability denials to determine if Medicaid recovery amounts could be increased by program or system changes that would allow for more denied claims to be resubmitted to the responsible third party; (2) the identification and evaluation of the outcomes of the department's third-party liability contractor's efforts to collect Medicare payments based on the number and dollar amount of Medicare claims appealed and the amount recovered for those claims; (3) if the department determines that the total amount potentially recoverable through the Medicare appeal process exceeds the

department's contract costs, the department shall propose ways to expand the number of claims it allows such third-party contractors to appeal; and (4) strategies to address any gap in collection efforts.

(c) The department shall submit a written report, in accordance with the provisions of section 11-4a of the general statutes, not later than January 1, 2014, of its findings regarding the audit feasibility assessment and third-party liability analysis to the joint standing committees of the General Assembly having cognizance of matters relating to human services and appropriations and the budgets of state agencies.

| This act shall take effect as follows and shall amend the following sections: | | |
|---|---|---|
| Section 1 | *from passage* | New section |
| Sec. 2 | *from passage* | New section |

***Statement of Legislative Commissioners:***
In section 1(a), ", in accordance with the provisions of section 11-4a of the general statutes, to the General Assembly" was deleted in the first sentence to avoid repetition; in section 2, "(NEW)" was deleted for accuracy and "must" was changed to "shall" in subdivision (3) of subsection (b) for statutory consistency.

***PRI*** *Joint Favorable Subst. C/R* HS

***HS*** *Joint Favorable Subst.-LCO*

## *OFA Fiscal Note*

***State Impact:*** None

***Municipal Impact:*** None

### *Explanation*

This bill requires the Department of Social Services (DSS) to annually report on the state's efforts to combat Medicaid fraud, waste, and abuse and the recovery of Medicaid overpayments. Additionally, DSS must examine expanding its Medicaid audit and third party liability efforts and report to the General Assembly. There is no anticipated fiscal impact from these requirements.

### *The Out Years*

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis**

**sHB 6514**

***AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE CONCERNING MEDICAID PAYMENT INTEGRITY.***

## SUMMARY:

Starting June 30, 2014, this bill requires the Department of Social Services (DSS), in coordination with the chief state's attorney and attorney general, to annually submit a joint report to the General Assembly on the state's efforts in the previous fiscal year to (1) prevent and control Medicaid fraud, abuse, and errors and (2) recover Medicaid overpayments.

The bill also requires DSS to (1) assess the feasibility of expanding its Medicaid audit program, (2) analyze the recovery of Medicaid dollars through its third-party liability contractors to determine if recovery procedures maximize collection efforts, and (3) report its findings to the Human Services and Appropriations committees by January 1, 2014.

EFFECTIVE DATE: Upon passage

## JOINT REPORT ON MEDICAID FRAUD PREVENTION AND OVERPAYMENT RECOVERY

The DSS, chief state's attorney, and attorney general's annual joint report must include a final reconciled and unduplicated accounting of identified, ordered, collected, and outstanding Medicaid recoveries from all sources. The report (1) cannot include any personally identifying information related to a Medicaid claim or payment and (2) does not have to include information that is protected from disclosure by state or federal law or by court rule.

The bill requires DSS, the chief state's attorney, and the attorney

general to provide information and data, presumably in the report.

### *DSS Information Requirements*

The bill requires DSS to provide Medicaid audit data, including the:

1. number of such completed audits by provider type,
2. amount of overpayments identified and recovered due to such audits,
3. amount of avoided costs identified by the audits, and
4. number of such audits that were referred to the chief state's attorney.

The bill requires DSS to provide Medicaid program integrity investigation data, including:

1. the number of complaints received by source type and reason;
2. the number of investigations opened and completed by source and provider type, including outcomes;
3. the amount of overpayments identified and collected due to investigations;
4. the number of investigations resulting in (a) a referral to the chief state's attorney, (b) suspension of Medicaid payments by provider type, and (c) provider exclusion from Medicaid by provider type;
5. for each closed investigation, the length of time between case opening and closing by time ranges, from between (a) less than one month to six months, (b) seven to 12 months, (c) 13 to 24 months, or (d) 25 or more months; and
6. for each investigation referred to another agency, the length of time between case opening and referral for those time ranges.

The bill also requires DSS to provide information on the amount of overpayments collected by recovery contractors by contractor type.

### *Chief State's Attorney and Attorney General Information Requirements*

The bill requires the chief state's attorney and attorney general to each provide Medicaid information including:

1. the number of investigations opened by source type;
2. the general nature of the allegations by provider type;
3. for each closed case, the length of time between case opening and closing by time ranges, from between (a) less than one month to six months, (b) seven to 12 months, (c) 13 to 24 months, or (d) 25 or more months;
4. the final disposition category of closed cases by provider type;
5. the monetary recovery sought and realized by action, including (a) criminal charges (chief state's attorney) or civil monetary penalties (attorney general), (b) settlements, and (c) judgments; and
6. the number of referrals declined and the reasons why they were declined.

### *Report Requirements*

The report must include third-party liability recovery information for the previous five-year period by fiscal year, including the:

1. total number of claims selected for billing by commercial health insurance and Medicare;
2. total amount billed for such claims;
3. number of claims where recovery occurred;
4. amount collected;

5. number of files updated with third-party insurance information; and

6. estimated future cost avoidance related to updated files.

The report must also include:

1. detailed and unit-specific performance standards, benchmarks, and metrics;

2. projected cost savings for the following fiscal year;

3. new initiatives taken to prevent and detect overpayments; and

4. policy recommendations necessary to prevent or recover overpayments and deter and detect fraud. Each policy recommendation must include a detailed fiscal analysis with estimated (a) implementation costs, (b) savings, and (c) return on investment.

The bill requires the DSS commissioner, chief state's attorney, and attorney general to submit the report to the Human Services and Appropriations committees. Each agency must also post the report on its website.

## DSS MEDICAID AUDIT PROGRAM EXPANSION ASSESSMENT

The bill requires DSS to assess the feasibility of expanding its Medicaid audit program. The assessment must include a (1) return-on-investment cost-benefit calculation of such an expansion and (2) cost comparison between using DSS employees or a contingency-based contractor to increase the number of audits.

The bill requires DSS to produce a written analysis of the recovery of Medicaid dollars through its third-party liability contractors to determine if recovery procedures maximize collection efforts. If deficiencies are found in such procedures, the department must develop strategies to address any gaps. The analysis must include:

1. a review of the reasons for third-party liability denials to determine if Medicaid recovery amounts could be increased by program or system changes that would allow for more denied claims to be resubmitted to the responsible third party;

2. identification and evaluation of the outcomes of the department's third-party liability contractor's efforts to collect Medicare payments based on the number and dollar amount of Medicare claims appealed and the amount recovered for those claims;

3. if the department determines that the total amount potentially recoverable through the Medicare appeal process exceeds the department's contract costs, it must propose ways to expand the number of claims it allows such contractors to appeal; and

4. strategies to address any gap in collection efforts.

The bill also requires DSS, by January 1, 2014, to submit a report on its audit feasibility assessment and third-party liability analysis findings to the Human Services and Appropriations Committees.

## COMMITTEE ACTION

Program Review and Investigations Committee

Joint Favorable Substitute Change of Reference
Yea 10 Nay 0 (03/14/2013)

Human Services Committee

Joint Favorable
Yea 18 Nay 0 (03/21/2013)